

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Randy Turner,)	
)	C/A No.: 8:04-22490-MBS-BHH
Plaintiff,)	
)	
vs.)	
)	
Alvin S. Glenn Detention Center,)	O R D E R
)	
Defendant.)	
_____)	

Plaintiff Randy Turner brought this action in state court, alleging that his constitutional rights were violated in numerous respects. Defendant removed the case on October 6, 2004 on the grounds of federal question jurisdiction.

This matter is before the court on Defendant's motion for summary judgment, which motion was filed December 1, 2004. By order filed December 6, 2004, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff filed no response to the motion for summary judgment. Instead, on December 30, 2004 and January 7, 2005, Plaintiff filed motions to amend his complaint.

In accordance with 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pretrial handling. On March 7, 2005, the Magistrate Judge issued an order granting Plaintiff's December 30, 2004 motion to amend but denying the motion to amend filed January 7, 2005. The Magistrate Judge directed Plaintiff to file an amended complaint by March 30, 2005. A copy of the order granting the motion to amend was mailed to Plaintiff's last known address at Alvin S. Glenn Detention Center, 201 John Mark Dial Drive, Columbia, South

Carolina 29209. On March 29, 2005, the envelope containing a copy of the order was returned to the Office of the Clerk of Court marked "No longer at this address."

On June 1, 2005, the Magistrate Judge issued a Report of Magistrate Judge recommending that the within action be dismissed for failure to prosecute. A copy of the Report of Magistrate Judge was sent to Plaintiff's last known address at Alvin S. Glenn Detention Center, 201 John Mark Dial Drive, Columbia, South Carolina 29209. The envelope containing a copy of the Report of Magistrate Judge was returned to the Clerk's Office marked "NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD."

On October 14, 2004, the Magistrate Judge issued an order advising Plaintiff of his responsibility to notify the court *in writing* if his address changed. Plaintiff was informed that his case could be dismissed for failing to comply with the court's order. Based on the foregoing, it appears that Plaintiff no longer wishes to pursue this action. Accordingly, it is ORDERED that this action be dismissed *with prejudice* pursuant to Rule 41(b), FRCP, for lack of prosecution.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

June 28, 2005

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.